



Signed: March 29, 2011

EDWARD D. JELLEN
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re No. 10-44367-EDJ-11
Chapter 11
MOUNT DIABLO YOUNG MEN'S
CHRISTIAN ASSOCIATION,
Debtor.

MEMORANDUM RE FEE APPLICATION

MacDonald & Associates, counsel for the debtor in the above-captioned chapter 11 case, has requested a final allowance of attorneys fees in the sum of \$309,462 and expense reimbursement in the sum of \$6,468.93. The court will allow fees in a reduced amount as hereinafter provided.

The two primary billers in this case were Iain A. MacDonald ("MacDonald") and Reno F.R. Fernandez III ("Fernandez"). MacDonald is a highly experienced bankruptcy practitioner. As of April 16, 2010, the date of the petition herein, MacDonald had been a member of the California State bar for over 38 years. MacDonald billed his time in this case at the rate of \$450 per hour prior to June 1, 2010, and at the rate of \$550 per hour thereafter.

Memorandum: Fee Application

1 Fernandez, by contrast, is a relatively young and less
2 experienced attorney. He was admitted to the California bar on
3 December 4, 2007. Thus, at the date of the petition herein,
4 Fernandez had been practicing law for slightly in excess of two
5 years, four months. The fee application at issue requests an
6 allowance for Fernandez's at the rate of \$335 per hour for the time
7 he spent prior to June 1, 2010, and at the rate of \$450 per hour
8 thereafter.

9 The primary method for calculating fees in bankruptcy cases is
10 the "lodestar." In re Manoa Finance Co., Inc., 853 F.2d 687 (9th
11 Cir. 1988). Under this method, the appropriate allowance is
12 generally the number of hours the applicant actually and reasonably
13 expends in the performance of compensable services, multiplied by a
14 reasonable hourly rate. Manoa Finance Co., 853 F.2d at 691. See
15 also, Unsecured Creditors' Committee v. Puget Sound Plywood, Inc.,
16 924 F.2d 955, 957-58 (9th Cir. 1991).

17 Here, the court finds that Fernandez's hourly billing rate is
18 excessive. On June 1, 2010, Fernandez, who had then been a member
19 of the California State bar for two and one-half years, started
20 billing at the same hourly rate at which MacDonald, with over 38
21 years of experience, was billing at the outset of this case.

22 The court finds that \$335 an hour to be the more reasonable
23 hourly rate for Fernandez in this case, and requests MacDonald &
24 Associates to submit a proposed order providing for a final
25 allowance of fees herein that have been recalculated accordingly
26

1 from the date of commencement of this case.¹

2 In reducing fees, the court is in no way suggesting that the
3 court observed any deficiencies in the quality of the services
4 Fernandez rendered, or that any such services were not beneficial to
5 his client. However, one the factors that influences the
6 establishment of a reasonable hourly rate is experience, because of
7 the wisdom and efficiencies that go with it. See 11 U.S.C.
8 § 330(a)(3)(E) (reasonable compensation to be determined in part by
9 the professional's experience in the bankruptcy field); see also, In
10 re Maruko Inc., 160 B.R. 633, 640-41 (Bkrtcy.S.D.Cal 1993) (holding
11 that counsel's lack of experience warranted a reduction in fees).
12 For Fernandez, such experience will come, but as of today, it still
13 lies ahead.

14 ** END OF MEMORANDUM **
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22 ¹Thus the final allowance would be an amount equal to the
23 time spent by the professionals other than Fernandez multiplied
24 by the hourly rates specified in the application, plus the time
25 spent by Fernandez from the date of the petition multiplied by
26 \$335 per hour. The additional fees allowed would therefore be
the amount so calculated minus the amount of interim fees paid to
date. The order may also provide for the allowance of expense
reimbursement as requested.

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